

**ONE HUNDREDTH LEGISLATURE - SECOND SESSION -  
2008**

**COMMITTEE STATEMENT**

**LB878**

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**Hearing Date:** February 07, 2008

**Committee On:** Government, Military and Veterans Affairs

**Introducer(s):** (Engel)

**Title:** Change provisions relating to recall petitions

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**Roll Call Vote - Final Committee Action:**

Placed on General File with Amendments

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**Vote Results:**

7 Yes	Senators Adams, Aguilar, Avery, Karpisek, Lautenbaugh, Pahls, Rogert
0 No	
0 Absent	
1 Present, not voting	Senator Friend

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**Proponents:**

Senator Pat Engel  
Jo Dee Adelung  
Edward Matney  
Rodney Storm  
Lynn Rex

**Representing:**

Introducer  
Self  
Self  
City of Blair  
League of Nebraska Municipalities

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**Opponents:**

**Representing:**

**Neutral:**

Sandra Stelling

**Representing:**

Clerks/Register of Deeds/Election  
Commissioners

Beth Bazyn Ferrell

Nebraska Association of County Officials

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**Summary of purpose and/or change:**

With LB 878, the reasons for recalling an elected official are limited to malfeasance in office, misfeasance in office, and nonfeasance in office. These terms are defined in the bill. Currently, recall efforts do not need to be based on a specific reason.

The principal circulator or circulators of the recall will submit to the filing clerk a statement alleging facts which, if true, establish the grounds of malfeasance, misfeasance, or nonfeasance in office.

Under current law, the individual sought to be recalled is notified that an affidavit has been filed by the principal circulator seeking his or her removal from office. The individual is then given the opportunity to file, within 20 days, a defense statement. With LB 878, the individual may decide, instead of filing a defense statement, to file suit in the district court to challenge the sufficiency of the allegations in the statement filed by the principal circulator or circulators. The court will presume the allegations are true and construe them in the light most favorable to the principal circulator or circulators. The court will determine, without hearing or cost, whether the allegations in the statement establish the existence of malfeasance, misfeasance, or nonfeasance in office. The court will notify the clerk and all parties within five days after the decision.

If the allegations are found to be sufficient, the individual whose removal is sought may submit a defense statement within 20 days after receiving the notice of the decision. After receipt of the defense statement or the expiration of the 20 day period if no defense statement is submitted, the filing clerk will issue the petition papers to the principal circulator or circulators.

If the allegations are found not to be sufficient, the filing clerk will not issue petition papers.

LB 878 requires the petition papers to state the estimated cost of the recall election.

Finally, the bill requires the filing clerk to notify the Secretary of State when initial petition papers are issued, when the recall petition is found to be sufficient and an election will be held, and the results of recall elections. The Secretary of State will compile all of these records.

**Explanation of amendments, if any:**

With the committee amendment, the list of reasons an elected official may be recalled is expanded to include a conviction of a crime involving an act of dishonesty or a false statement.

The amendment also removes language requiring that a statement of the estimated cost of the recall election be printed on the petition papers.

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Senator Ray Aguilar, Chairperson